Previous references.
Police 136-06 1-2
" 180-05 1-5
" 5-8-06 1-4
notification no. 15-535 07.8.3.04
Later references. J1334 Police)
" J874 D 16.12.02
Pol 113-44 (1-3

1908.

28

File No. 178-08

Serial Nos. 1-5

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-5

Part B. for October 1909

SUBJECT.

Empowering the Magistrates of the Chitaldrug District to conduct Searches under Section 25 of the Mysore Arms Regulation

From

1. The Dt. Magte of Chitaldrug no. 432 D 26.4.09

Requests to be informed as to who are all the persons authorized in his Dt. to conduct Searches & recommends the Empowering of all Magtes of that Dt. with the said power.

2. To The Compiler, Mysore Gazette no. J3524 D 17.

Notifies the grant of the power in q. to the Dy. Amildar of Harihar.

To

3. The Dt. Magte of Chitaldrug no. J 3743 of 26-6-09

Enquires whether it is necessary to authorise all Amildars of his Dt. to conduct the Search.

From

4. The Same no. 5 & 4.7.09

Recommends that Amildar Magtes may be authorised to conduct the Search.

5. To. The Compiler, Mysore Gazette no. J 11468 & 12.10.09

Notifies the grant of the power recommended to all Magtes in the State & to the Inspector of the Manjarabad Taluk.

G.R.S. 11] 1909.

GENERAL AND REVENUE SECRETARIAT.

(Police.)

NOTES.

File No. 178/08

File Heading.

Empowering the Magts of the Chittagong Dt. to conduct searches under Section 25 of the Mysore Arms Regulations.

From

The Dt. Magte. of the Chittagong Dt.

No. 432 Dated 26/27.4.09 Received 28.4.09

Diary No. J2767	Enclos.	Spare Copies	Serial No. 1

Brief Abstract of Letter.

Requests to be intimated who are all the officers appointed by Govt. to conduct searches under section 25 of the Mysore Arms Regulations in this Dt. and recommends that, if there be none such, all the magts in the Dt. may be empowered to conduct searches of the kind.

NOTES AND ORDERS.

1 The available papers on the subject are put up. It will be seen from them that the following officers have been empowered to conduct searches under Section 25 of the Arms Regulations:-

Notes—First sheet

GPB—30,000-3-1-07.

G. R. S. 12]
General and Revenue Secretariat.

Police File No. 178 of 1908-09

Serial No.

Kadur Dt.

I Amildars of:-

(1) Chikmagalur.

(2) Kadur.

(3) Tarikere.

(4) Koppa.

(5) Mudigere.

II Dy. Amildar of Yedehalli.

Notification no. T874 dt. 16.12.02

76 L

Tumkur Dt.

I Amildars of:-

(1) Tumkur.

(2) Gubbi

(3) Madhugiri.

(4) Kunigal.

(5) Chiknaikanahalli

(6) Sira

(7) Pavagada.

(8) Tiptur.

II The Dy. Amildars of:-

(1) Koratagere.

(2) Turuvekere.

Notification no. T1154 dt. 7.2.03.

76 Z

Hassan Dt.

The Police Inspector of the Manjarabad Taluk.

Notification no. 15535-T1334 dt. 18.3.02

flag W

Bangalore Dt.

Amildar of Channapatna.

Notification no. T2479-Pol 136-06-2 dt. 18.2.07.

76 O

NOTE—Contn. sheet.

GPB—50,000—13-5 08

Serial No.

2 It is apparent from the above that no officer has been appointed for the purpose in the Chitaldrug Dt.

3 Subs. for orders.

B.S. 8.5.09 SW 10/5.

4 For the case on hand, the Deputy Amildar of Harihar may ~~be appointed for the purpose~~ be authorised to conduct searches. ~~etc.~~ If considered desirable, all the Amildars in the Chitaldrug Dt may be so appointed but so far no necessity appears to have manifested itself.

10/5 SW

1st Councillor

5 The Dy Amuldar of Harihar may be authorized now. Ask the D.C if it is necessary to authorize all the Amildars in that Distt to conduct the search

12/5 SW

12/5/09

12/5 12.5.09

NOTE—Contn. sheet. Orders withholding authority for appointment of Deputy Amildars in question.

GPB—50,000—18-5-08

G. R. S. 12]
General and Revenue Secretariat.

Police File No. 178 of 1908-09

Serial No.

Subd. with a draft notification empowering the Dy. Tahsildar of the Harihar Sub Taluk as directed above. As regards the 2nd point raised above attention is respectfully invited to the last sentence of the Dt. Magts' letter wherein he recommends that all magts. in the Dt may be invested with the power in question.

B.G. SN 13-5-09 14/5

1. Issue notification.
2. Enquiry may be made of the Deputy Commr. He seems to have made a general recommendation in respect of all magistrates in his district in a sort of routine fashion

14/5. Sd.

Issd. 14/5

Place for a draft

14/5 Subd. with a draft to the D. C.

B.G. 26-5-09 SN 27/5/09.

Issued Sd. 29/5

2 To The Compiler, Mysore Gazette no. T 3526 dt/17-5-09 Notifies the grant of the powers

Vide Mysore Gazette dt 20-5-09 Part I/1 P. 188.

NOTE—Contn. sheet.

GPB—50,000—13-5-08

Serial No.

in question to the Dy. Amildar of Haribar.

To The Dt. Magte. Chitaldrug no. T 3525 D/17-5-09.

Forwards copy of the above.

3 To The Dy. Coner. Chitaldrug. no. T 3743 D/ 2-6-09

Enquires whether it is still necessary to authorise all Amildars in his Dt. to conduct the search.

4 From The Dt. Magte. Chitaldrug Dt. no. 5 D/4-7-09

Recommends that all Amildars Magte may be authorised to conduct the search.

11 Subd. for orders with a draft notification.

B.G. 20-7-09. SN 20/7

20/7/09. SH

1st C/ 12

What is the rule in the Madras Presidency?

The wholesale investing of Amildars with this power may be unnecessary and even objectionable. The power is sparingly granted by Govt. at present

KBN

Ithe 21.7.09

NOTE—Contn. sheet.

GPB—50,000—15-5-08

G. R. S. 12]
General and Revenue Secretariat.

Police File No. 178 of 1908-09

6

Serial No.

13 Subo. A reference to notification no. 384 Judicial dt 31st August 1883 & no. X 132 Judicial dt 17. 3. 1885 shows that such searches in the Madras Presidency may be made in the presence of a mafe., an Inspector or Sub Inspector of Police or of a head of a village. (The Gazettes containing these notifications are not available in the Records. Vide requisition slips put up.)

29.7.09 SN.

2/17

2617. SH

1st Cr)

14)

All our Amildars and Deputy Amildars are magistrates. So a general rule may be made that searches under Sec 25 of the Mysore Arms Regulation should be conducted in presence of magistrates.

Please submit for Dewans approval thro' the Secretary

KVN 3/1820

Note—Contn. sheet.

GPE—80,000—13-5-08

Put up draft not Fit

Serial No.

15 Subd. with a draft notification as directed.
B.G.
6.8.09. SH

16 The draft notification supersedes all previous notifications and will thus take away the power which the Police Inspector of Manjanabad Taluq has in this respect. The reference file just up shows that the Government made a Special Exception of this Taluq and invested in investing the Police Inspector with ~~power~~ the authority to conduct a Search in question.

17 It has now to be considered whether this ~~power~~ authority should be continued or revoked. If the former, the draft notification will have to be suitably modified.

4/8/09 SH

1613
11.8.09

Hearing thro 2nd Cl

18 I do not think that there is any necessity to empower Magistrates by Special order t ~~to~~

NOTE—Contn. sheet.

Serial No.

make or to have made in their presence, any search required for a criminal Case within their Cognisance. S. 105 of the Cr. P. Code prescribes that a Magistrate may direct a search to be made in his presence, of any place for the search of which he is competent to issue a search warrant. S. 96 Contains provns for search warrants. S. 25 of the Regulation (S. 30 of the Arms Act) lays down a limitation on powers which may be exercised by various Criminal officers under the Procedure Code. But that cannot limit the Power of Magistrate enquiring into or trying a Case. S. 20 of the Regn gives "any Magistrate" power to search for arms suspected to be unlawfully possessed &c, which is a much wider power. The restriction in S. 25. must therefore be Construed to refer only to persons who are not Magis-

Office will please find out whether such empowering notifns are found in other places than Madras.

Note—Contn. sheet.

GPB—50,000—15-5-08

Serial No.

trates. If the latter were meant to be included, they should have been mentioned expressly.

19 For Magistrates before whom the Cases are pending no Special empowering is necessary. It is absurd to suppose that when a Magte is trying a Case & finds that a search is necessary, he has to stay his hand & wait for an authority from Govt. But if he directs the warrant to another person, then the latter will have to be authorised by the Govt. I think it is unnecessary to issue the proposed Notn. When it is ~~necessary~~ proposed to ~~be~~ bestow the qualification on others we may consider the necessity in each individual

GPB—50,000—13-5-08

Serial No.

Case.

20 To show that my view is correct (about the extent of S. 25, Arms Rules), I might add that under the P. C. Code Police Officers have also Power to Search. (Cf S. 165 Cr.C.)*

* Hence the necessity to introduce a limitation in cases of others than magistrates.
8/9/09

12/8/09

21 The note under Sec. 165* of the Cr. Pro. Code in Chitaley's Commentary shows the ~~duties~~ persons who have been specially appointed in Bengal. Please look up "Bombay rules & orders" for Mofussil Provinces for a similar note.

22 Also put up the discussions in the Imperial Legislative Council in connection with the passing of the Arms Act.

Police
16/8.

23 In Bombay no such notification seems to have been issued. Vide Local Rules & Orders of the Bombay

* P. 184 of the 14th Edn. Vol IV
Part up
copy put up
13/
18.8.09

4C7

NOTE—Contn sheet.

G. R. S. 12]
General and Revenue Secretariat.

Police File No. 178 of 1908-09.

Serial No.

Presidency) in reference to the Police Manual of N. W. P. & Oudh shows that Inspector of Police & Police Officers in charge of reporting stations, Asst. Superds & Asst. Superds. have been appointed by notification under this for the purpose of conducting searches under section 30 of the Arms Act. Subd. with volumes of the Govt. of India Gazette containing the abstract proceedings of the Supreme Legislative Council relating to the Indian Arms Act of 1878.

B.G. 18.8.09. SW 19/8/09

71.S. But this does not make it clear whether other Officers have not also been invested with a similar power. Cases 30/8. SW 4.9.09

Books sent separately SW 6/8/09

There is nothing in the discussions before the Council that throws light on the point now under consideration

30/8/09. SW

Sec 11.

25. The information available shows that notifns have been issued in Bengal, Chittagong & Madras empowering Magts under Sec. 30 of the Indian Arms Act, con-

NOTE—Contn sheet.

GPB—50,00917—3-07

Serial No.

responding to S. 25 of our Regulation. There is not sufficient information available as regards other provinces.

2. As regards the necessity or otherwise for such an authorisation, I venture to differ from the view taken by the Legal Councillor. It seems to me that the words "notwithstanding anything contained in the said [Criminal Procedure] Code," employed in S. 25 of the Arms Regln., are unqualified and operate to exclude not only Police Officers but also Magistrates, these being the two classes of officers empowered by the Code to conduct searches or have searches conducted in their presence (Ss. 165 & 166, & S. 105). If Police Officers alone were intended to be excluded, it would have been necessary to indicate this by the language of the section which would have been more like what it is in section 20 ("No search .... shall be made by or in the presence of a Magistrate or .... of some officer specially empowered" etc etc). The omission of all reference to Magistrates in S. 25

NOTE—Contn. sheet.

Serial No.

complied with its retention in section 20, seems to me to be significant, & to form another argument in favour of the view that the office in whose presence a search is made under the former section, — be he a Magistrate, a Police Officer, or any one else, — must be one specially appointed by Govt for the purpose of the section. [It is not difficult to see why the law has imposed special restrictions* as to the action of the executive in the case of proceedings against private persons for unlicensed possession of arms & ammunition (S.25), than in the case of apprehended danger to the public peace or security (S.20)]

27 With reference to para 19 of the 2nd Ch's notes I would point out that S.25 does not require that an authority from Govt is necessary for the purpose of each case; a general authorisation, either by name or in virtue of office, is what is contemplated; and there is no occasion for a Magistrate having to "lay his hand" or "wait for an authority,"

* Such as previous sanction of the Magte to search to be in the presence of a Magte, &c.

This is no answer. I am referring there to Magtes who try cases under the Arms Regulation without having been given this power

GPB—50,000—18-5-08

Serial No.

When there is available on the spot either the Magistrate himself or some one else, already duly empowered in that behalf.

28. If considered necessary, a reference may perhaps be made to the Govt Advocate for opinion.

29. But after all, in a matter of this kind, which possibly admits of a difference of opinion, but in which there is the fullest reason why subordinate officers should not be left to struggle with doubts or difficulties, is it not the safest and most expedient course in every way to adhere to our own previous practice, and the precedents of Bengal and Madras, and lay down clearly who are the authorities empowered to conduct searches, instead of leaving this to be inferred by each officer concerned? Whether we formally empower Magistrates by a notification under S. 25, or might say in an order that they have already got the necessary power [a doubtful proposition], the practical effect is the

NOTE—Contn. sheet.

GPB—50,000—18-5-08

Serial No.

Same.

30. [I may add that the Legal Councillor was so good as to allow me to discuss the question with him personally after his note 9/12/08 was written, & to promise to consider my views when submitted in writing.]

2 D.C.

Agreed
Sd

I see no sufficient reason to alter my opinion.

31 At the same time, there is no harm in issuing a Notification, though personally I deprecate the issue of unnecessary Notns

Dewan

8/9/09

2432 (6 copies)
10/9/09

Agreed
Sd
10/9/09

33 The proposed notfn would deprive the Abkari Inspectors of powers they also possess it. Circulated to First Councillor

Agreed
Sd

34. (This & any other Abkari Notifns considered necessary should be included in the Notfn, of course. Agreed
Sd
25/9/09)

35 [Sd]

436
1.10.09

The Notification may receive Attn

NOTE—Contn. sheet.

GPB—55,0301—27-4-09

Serial No.

The power already granted to the Police Inspector of Mainpuri is a special one and should be left undisturbed

16/1/09

(T. Devadasan) 1/10/09

Alter the draft suitably and Submit

1/10/09 SH

T.D.

[redacted]

B.G. 6/10/09 37 Subd. with a fresh draft as per personal instructions

SH 5/10

3 The powers now exercised by the Police Inspector, Mainpuri are retained in the draft.

5/10/09 SH

2834 6/10/09

Dewan 13/7

The revised draft has been approved by the Dewan

by

7/10/09

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

Police File No. 178 of 1908-09

Serial No.

U/C Vide my query against para 4 of the draft. Please see how the Bengal & Madras notifns are worded, & redft if necessary ["Shall" is restrictive; & its use precludes any other Officers being similarly empowered, & hence para 2 would be inconsistent -] —

U/I Putup notifications referred to above

9/10/09

4 Encls. with copies of the Madras notifications. The page of the Calcutta Gazette referred to in Principal Criminal Procedure Code does not contain the notification pertaining to Bengal.

B.G. 11-10-09 11/10

43 Above substituted may for Shall

11/10/09

To The compiler, Mysore Gazette. no. J1146 dt 12-10-09.

Notifies the grant of the power recommended to all magts. in the State & to the Inspector of the Inamjenbad Dt.

Published in the Mysore Gazette dt 14.10.09 Part I pp 514

NOTE—Contn. sheet.

GPB—50,000—13-5-08

Ex. 4 w/4 Mem 1909 J 2767

From Judicial No. 178

The District Magistrate
Chitaldrug District.

To

The Secretary to the Government
of H. H. the Maharaja of Mysore
in the General and Revenue Department

Dated 26-3-09 Bangalore

Despatched 2-3 April 1909.

Received

General No. 432
No.

Enclosure No.

Requesting to be informed as to who are all the persons that have been authorised in this District to conduct searches under Section 25 of the Arms Regulation &c.

104/32

District Magistrate's Office,
Chitradurga District.

Dated, Chitradurga, 26th April 1909

From

Mr. Chennigaraya Chetty, Esquire, B.A.
District Magistrate
Chitradurga District

To

K. S. Chendrasekhara Iyer, Esquire, B.A. B.L.,
Secretary to the Government of
His Highness the Maharaja of Mysore,
General and Revenue Departments.
Bangalore

Sir,

I have the honor to report that one Hotteppa of Harlahalli village in the Harihar Sub-Taluk was a license holder for the possession of a gun till the end of the year 1903. As he failed to have his license renewed from the year 1904, and as he is dead, the Police demanded from his people the surrender of the gun but they assert that there is no gun with them. As the Police suspect that the arm is secreted in one of the 5 houses owned by Hotteppa in the village, they pray for permission to search the said buildings.

2. Under section 25 of the Arms Regulation 1890 the search of the fire arm should be made in the presence of some officer specially appointed by name or in virtue of his office, by the Government of Mysore,

7C R

2

in this behalf. I beg to be informed as to who are all the persons that have been authorized in this District to conduct searches under this section. If no officer has yet been authorized, I recommend that all the Magistrates may be empowered to conduct searches of the kind ... ter adverted.

I have the honor to be,

Sir,

Your most obedient servant-

District Magistrate.

P.O. Chikodiny District

2705/

File no 178
Sl. no 2

Published in the Mysore Gazette of 20.5.09 Part I pg 188

No. J 3524

pblic 178-08-2

Notification

dt. 17-5-09

Under section 25 of the Mysore Regulation VI of 1890 the Govt. of H.H. the Maharaja are pleased to appoint the Dy. Commissioner of the Hassan Sub Taluk as the Officer in whose presence records in the course of proceedings in respect of offences punishable under section 14, clause (c), of the said Regulation shall be made in that Sub Taluk

By Order

for Secretary

To the Compiler, Mysore Gazette for publication with Kannada translation.

Copy to the Dt. Magte. of the Chital Drug dt. with reference to his letter no. 432 dt 26/27 th April 09

By Order

for Secretary

47

Police

G.R.S. 26]

File No. 178

Serial No. 3

Diary No. of letter replied to 2767

No. J 3743

8/6/09

General and Revenue Secretariat

( )

, the 190 .

To The Dy. Comr., Chilaw District.

Date of issue 2-6-09

Signed by Jas. S. Hiriyannaiya

With reference to his letter No. 432 dated the 26/27th April 1909 in the matter of empowering the Magistrate of his Dt. to conduct searches under section 25 of the Ingross Arms Regulation, I am directed to call his attention to Govt. notification No. J 3526 - Police 178-98-2 dated the 17th May 1909 and to enquire whether it is still necessary to authorize all the Magistrates in his Dt. to conduct

over.

SUBJECT.

Copied J.R. 31/5.

searches under the said

section.

By order

for Secretary

11/27/5

List of enclosures.

Copied by

Examined by

MGCPB—30,000—16-2-05

190 9 983

File no. 178

From The District Magistrate.
Chitaldrug District

To The Secretary to the Government
of H.H. the Maharaja of Mysore
Genl & Rev: Depttt
Bangalore

Dated 4th

Despatched July '09

Received

General No. 5

No.

Enclosure No.

Recommending that all
the Taluk Magistrates
may be authorized to issue
Searches under Section 25 of
the Mysore Arms Regulation.

No 5

Office of the District Magistrate
Chitaldrug District
Dated camp Madakadmuru 11th July 1909.

From

Mr. Cheruvah Chetty, Esquire, B.A
District Magistrate
Chitaldrug District

To

C. S. Balasundaram Iyer, Esquire I.C.S
Offg Secretary to the Government of
His Highness the Maharaja of Mysore,
General and Revenue Departments,
Bangalore

Sir

In reply to your docket No. J 3743 / Police 17-08-3 dated 2nd June 1909 I have the honor to state that if sanction of Government is to be sought under Section 25 of the Arms Regulation on each occasion requiring a house to be searched for arms, the delay will afford an opportunity for concealing the arms. I therefore beg to recommend that all the Amildar Magistrates may be authorized as already requested in my letter No. 432 dated the 26/27th April last.

I have the honor to be,
Sir,
Your most obedient servant

District Magistrate
Chitaldrug District

f 63 9/10

Published in the Mysore Gazette of 14.10.09 Pt I pp 574.

ab 6

file no 178
Sl. no. 5

Notification

No 1146
Police 178-08-5 Dt/12-10-09.

In supersession of all previous notifications on the subject, the Govt. of H.H. the Maharaja of Mysore are pleased under section 25 of the Amended Regulation VI of 1890, ~~hereby~~ to appoint all magistrates in the State as officers in whose presence searches in the course of proceedings in respect of offences punishable under section 14, clause (c) of the said Regulation may be made in their respective jurisdictions.

2. The Police Inspector of the Magisterial Taluk to superintend & conduct, within the Taluk, searches under section 20 of the Regulation and he is further appointed as an officer in whose presence searches under the circumstances referred to in section 25 may be made within the said Taluk.

By order

for Secretary

To The Compiler, Mysore Gazette for publication with Kannada translation

B.G. 4.10.09